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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120412409-2409-01]

RIN 0648-BB95

Control Date to Limit Excessive Accumulation of Control, Qualifying Landings History, and Referendum Eligibility in the Monkfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: At the request of the New England and Mid-Atlantic Fishery Management Councils (Councils), this notice announces a control date that may be applicable to, but not limited to, limits on the accumulation of excessive control or ownership of fishing privileges, qualifying landings history for an allocation-based management program, and referendum qualification, should one be required in the monkfish fishery. This notice is intended to promote awareness of possible rulemaking; provide notice to the public that any future accumulation of fishing privilege interests in the monkfish fishery may be affected, restricted, or even nullified; and to discourage speculative behavior in the market for fishing privileges while the Councils consider whether and how such limitations on accumulation of fishing privileges should be developed. Interested participants should locate and preserve records that substantiate and verify

their ownership or control of monkfish permits and other fishing privileges, as well as monkfish landings history in Federal waters.

DATES: [Insert date of publication in the FEDERAL REGISTER], shall be known as the “control date” for the monkfish fishery and may be used as a reference date for future management measures related to the maintenance of a fishery with characteristics consistent with the Councils’ objectives and applicable Federal laws. Written comments must be received on or before 5 p.m., local time, [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by “NOAA-NMFS-2012-0080,” by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter “NOAA-NMFS-2012-0080” in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.
- Mail: Submit written comments to Daniel Morris, Acting Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Monkfish Accumulation Limits Control Date.”
- Fax (978) 281-9135; Attn: Douglas Christel

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment

period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, phone: 978-281-9141, fax: 978-281-9135.

SUPPLEMENTARY INFORMATION: The Monkfish FMP is jointly managed by the Councils. The Councils have managed the fishery since 1999 primarily through the allocation of days-at-sea (DAS) and establishment of trip limits for both the directed (DAS) and incidental fisheries. While scientific evidence for stock structure remains equivocal, the fishery has been managed as two stocks divided by a boundary that bisects Georges Bank. Since 2007, both stock components have been determined by stock assessments to be rebuilt (above their respective biomass targets) and not subject to overfishing.

On November 30, 2010, the Councils published a Notice of Intent to prepare an amendment (Amendment 6) to the FMP to consider modifications to the management program that may include one of several catch shares management alternatives, including sectors or Limited Access Privilege Programs (LAPPs). Sectors are voluntary, self-selected groups of fishermen that are allocated a portion of the available catch. Sector management has already been adopted in the Northeast Multispecies FMP, and a substantial number of vessels that have limited access permits in the monkfish fishery also participate in groundfish sectors. LAPPs are

a category of management approaches that provides a person or entity (for example, a community) the exclusive privilege to harvest a specific portion of a fishery's total allowable catch. LAPPs can include individual fishery quotas (IFQs) or community development quotas. Section 303A of the Magnuson-Stevens Act specified general requirements for LAPPs, including the requirement that such programs be approved in a referendum of eligible participants (as defined by the Councils) for New England fisheries.

The Councils are considering catch shares management in the monkfish fishery to address some operational considerations for vessels that participate in the monkfish fishery and also are members of groundfish sectors. NOAA's 2010 Catch Share Policy promotes catch shares management and encourages Councils to consider such programs, where appropriate, to achieve the conservation, social, and economic goals of sustainable fishery management.

Because some elements of catch share programs involve allocation of privileges based on historical performance in the fishery, including, in the case of LAPPs, eligibility to participate in the required referendum, on February 2 and February 16, 2012, the Councils requested that NMFS publish this ANPR announcing a control date in the monkfish fishery, in part to discourage speculative activity, including, but not limited to, increasing landings history, accumulation of fishing permits, or participation in the fishery solely for the purpose of qualifying to vote in the referendum.

The date of publication of this notification, [insert date of publication in the FEDERAL REGISTER], shall be known as the "control date" for the monkfish fishery and may be used as a reference date for future management measures in determining how to treat fishing privileges or landings history acquired before this date and those acquired after this date, depending on the Councils' determinations on limiting control and ownership of such privileges and landings. The

establishment of a control date, however, does not obligate the Councils to use this control date or take any action, nor does it prevent the Councils from picking another control date or imposing limits on permits acquired prior to the control date.

Accordingly, this notification is intended to promote awareness that the Councils may be developing management measures to address these concerns, to provide notice to the public that any current or future accumulation of fishing privilege interests in the monkfish fishery may be affected, restricted, or even nullified, and discourage speculative behavior in the market for fishing privileges while the Councils consider whether and how such limitations on accumulation of fishing privileges should be developed. Any measures the Councils are considering may require changes to the Monkfish FMP. Such measures may be adopted in a future amendment to the FMP, which would include opportunity for further public participation and comment.

If the Councils decide to propose a LAPP for the monkfish fishery, this control date may be used in determining eligibility for referendum voters. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) section 303A(c)(6)(D) requires that any IFQ program developed by the New England Fishery Management Council must be approved by a referendum. NMFS published guidelines for conducting a referendum on December 15, 2008 (73 FR 75968), that detailed the procedures for (1) determining procedures and voting eligibility requirements for IFQ program referenda, and (2) conducting such referenda in a fair and equitable manner. A referendum conducted on a proposed IFQ program in New England must be approved by more than 2/3 of those voting in the referendum among eligible permit holders and other eligible voters. Other eligible voters may include crew members who derive a significant portion of their income from the monkfish fishery.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their ownership or control of monkfish permits and other fishing privileges in the monkfish fishery, as well as monkfish landings in Federal waters. Fishing privileges include, but are not limited to, vessels, fishing permits, DAS, and any other type of catch share.

This notification and control date do not impose any legal obligations, requirements, or expectation.

Authority: 16 U.S.C. 1801 et seq.

Dated: May 4, 2012.

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Paul Doremus,  
Deputy Assistant Administrator for Operations,  
National Marine Fisheries Service.

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